

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

IN THE MATTER OF THE SEARCH OF:
21-081-03

Case No. 3:21-mj-72
SEARCH WARRANT

TO: FEDERAL BUREAU OF INVESTIGATION SPECIAL AGENT BENJAMIN
PLANTE AND ANY AUTHORIZED LAW ENFORCEMENT OFFICER OF THE
UNITED STATES

An application by a Federal law enforcement officer or an attorney for the government requests the search of the following property located in the District of South Dakota: Esther Flute wherever she can be found in South Dakota. The person or property to be searched described above, is believed to conceal the person or body of Esther Flute, date of birth 9/6/1960, to include, fingernails, fingernail clippings and swabs of the fingernail area, saliva, cheek skin samples, a buccal sample (swabs) and DNA.

YOU ARE COMMANDED to execute this warrant on or before

MAM
8-3-2021
August 27, 2021 (not to exceed 14 days)

☒ in the daytime – 6:00 a.m. to 10:00 p.m.

☐ at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from

CC: AUSA Troy Morley
+ Agent DDC

whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Mark A. Moreno, United States Magistrate Judge, or his designee.

☐ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized, ☐ for _____ days (not to exceed 30).
☐ until, the facts justifying, the later specific date of

August 3, 2021 @ 10:38 AM
Central time at Pierre, South Dakota
Date and Time Issued



Mark A. Moreno
MARK A. MORENO
United States Magistrate Judge

RETURN

Case no.:

Date and time warrant
executed:Copy of warrant and inventory left
with:3:21-mj-72

Inventory made in the presence of:

Inventory of the property taken and name of any person(s) seized:

CERTIFICATION

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated clerk of court.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
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IN THE MATTER OF THE SEARCH
OF:

21-081-03

CASE NUMBER: 3:21-mj-72

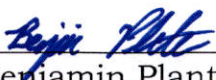
**APPLICATION FOR
SEARCH WARRANT**

I, Benjamin Plante, being first duly sworn upon oath, depose and state as follows:

I am a Special Agent with the Federal Bureau of Investigation, and I have reason to believe that on the person of Esther Flute, wherever she can be found in the District of South Dakota, there is now concealed a certain person or property, namely: the person or body of Esther Flute, date of birth 9/4/1960, to include, fingernails, fingernail clippings and swabs of the fingernail area, saliva, cheek skin samples, a buccal sample (swabs) and DNA, which I believe is property or information constituting evidence of the commission of a criminal offense, concerning a violation of 18 U.S.C. §§ 1153 and 1111.

The facts to support a finding of probable cause are contained in my Affidavit filed herewith, and attached hereto and incorporated by this reference.

Respectfully Submitted,



Benjamin Plante
Special Agent, Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence on the 3rd day of
August, 2021, at Pierre, South Dakota.

A handwritten signature in blue ink, reading "Mark A. Moreno". The signature is written in a cursive style with a horizontal line underneath.

MARK A. MORENO
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

IN THE MATTER OF THE SEARCH OF:

21-081-03

Case No.: 3:21-mj-72

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR SEARCH
WARRANT**

Filed Under Seal

STATE OF SOUTH DAKOTA)
) ss
COUNTY OF HUGHES)

I, Benjamin Plante, being first duly sworn upon oath, depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Federal Bureau of Investigation (FBI) Special Agent (SA), currently assigned to the Minneapolis Division, Pierre, South Dakota, Resident Agency (PRA), and I have been employed by the FBI since January 2018. From January to May 2018, I received training at the FBI Academy, receiving training in all matters related to criminal investigations including but not limited to: evidence collection, search and arrest warrants, and criminal procedures. As a Federal Agent, I am authorized to investigate violations of federal law of the United States and am a law enforcement officer with authority to execute warrants issued under the authority of the United States.

2. The information set forth below is based upon my knowledge of an investigation conducted by members of the FBI and the investigation of other law enforcement agents and officers including, but not limited to the Bureau of Indian Affairs (BIA). I have not included each and every fact obtained pursuant to this investigation but have set forth those facts that I believe are essential to establish the necessary probable cause for the issuance of the search warrant.

3. The facts and information contained in this Affidavit are based upon my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. This Affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Your Affiant makes this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the person or body of Esther Flute, date of birth (DOB) 9/4/1960, to include: fingernails, fingernail clippings, and swabs of the fingernail area, saliva, cheek skin samples, a buccal sample (swabs) and DNA. Based on my training and experience and the facts as set forth in this Affidavit, there is probable cause to believe that that there exist fruits, instrumentalities, and evidence of the offense of activities relating to material constituting or containing evidence of the offenses of violations of 18 U.S.C. §§ 1153 and 1111.

PROBABLE CAUSE

5. On August 3, 2021, your Affiant spoke with BIA Special Agent (SA) Kory Provost via telephone, and SA Provost informed your affiant of the following

pertinent facts:

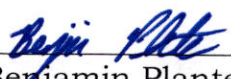
- a. On August 3, 2021, BIA Dispatch received a call for service at 1006 Yellow Hawk Avenue in Lower Brule, South Dakota. Esther Flute (Esther) reported that her husband was not breathing and requested assistance at her residence.
 - b. BIA Officer Conway Betone responded to the residence. Upon arrival, Officer Betone located an unresponsive male in the northwest bedroom of the residence. Officer Betone observed a bloodlike substance on the male and cuts, to include puncture wounds, to various parts of the body. Officer Betone further noticed what appeared to be blood on the sheet(s) and the wall(s) at the residence. A knife with a bloodlike substance was observed in the sink. A blunt instrument was also observed by the bed.
 - c. Rebecca Rodriguez (Rebecca) was also present at the residence. Rebecca reported that she heard Keith hollering for food. Rebecca did not provide information about an altercation.
 - d. Lyman County Sheriff Steve Manger arrived to assist and declared the male, now identified as Keith Rencountre (Keith), date of birth (DOB) 5/10/1961, deceased.
6. On August 3, 2021, your Affiant spoke with SA Michael Lemmage of the FBI via telephone, and SA Lemmage advised that Esther reported she was kicked in the stomach by Keith earlier in the evening but stated she did not fight back. Esther indicated that Keith had balance problems and he haphazardly moved about the residence on the night of his death. Esther stated that Keith bounced off the walls of a bedroom, at which time Esther helped him into the bathroom. Esther reported Keith later left the bathroom and laid down on the bed. Esther reported holding Keith until law enforcement arrived. Esther reported that Rebecca's significant other Haven Traversie was also at the residence. Esther denied knowing how Keith acquired the injuries observed by law enforcement.

7. Your Affiant is further aware that 1006 Yellow Hawk Avenue, Lower Brule, South Dakota, in Lyman County, is within the exterior boundaries of the Lower Brule Sioux Tribe Indian Reservation, a federally recognized tribe. I am further aware that Esther reported to SA Lemmage that she is an enrolled member of the Lower Brule Sioux Tribe.

CONCLUSION

8. Your Affiant is familiar with the recovery of DNA evidence through the use of buccal swabs, body swabs, fingernail clippings, and swabs of the fingernail area. Based upon my training and experience and the information contained in this Affidavit, I have reason to believe that the person or body of Esther Flute, DOB 9/4/1960, to include saliva, cheek skin samples, fingernail clippings and swabs of the fingernail area, and DNA, will contain necessary DNA specimens, which then can be compared to any DNA found during the investigation. The items sought to be collected from the body of Esther Flute will be considered items of evidence of the crime of Murder, in violation of 18 U.S.C. §§ 1153 and 1111.

9. I, therefore, respectfully request a search warrant be issued to search the person or body of Esther Flute, and the seizure and search of the items to include saliva, cheek skin samples, fingernail clippings and swabs of the fingernail area, and DNA.



Benjamin Plante,
Special Agent
Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence on this 3rd day of
August, 2021, at Pierre, South Dakota.

A handwritten signature in blue ink, reading "Mark A. Moreno". The signature is written in a cursive style with a horizontal line underneath.

MARK A. MORENO
United States Magistrate Judge